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Materials for Criminal Law, Small Group A

2004-05

Volume 1

Hamish Stewart

These materials were prepared solely for classroom use by students in the Faculty of Law, University of Toronto

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1. INTRODUCTION

1(a) Background and Context

A Note About These Materials

This casebook is an offshoot of a set of criminal law materials that has been developed over the years by Alan Mewett, Martha Shaffer, Hamish Stewart, and Audrey Macklin.

The criminal law is — as we hope you will discover — a fascinating and intellectually challenging subject; but it is also an emotionally and politically charged subject. Many of the cases you will read in this casebook are disturbing because they involve violence, often violence of a sexual nature. The brutality in these cases is disturbing for those of us who have not experienced violence firsthand — it is often more disturbing for those of us who have.

Even though some of the cases in the materials are painful to read, they are included in this casebook because they are the leading cases in their area. As you will see, many of the leading cases throughout the criminal law involve sexual violence committed against women or children. We recognize that theses cases may be particularly difficult to read and have sought to alert students by marking these cases with an asterisk (*). While our notation system will not make these cases any less troubling, we hope that forewarning readers will provide an opportunity to prepare for the disturbing nature of the material.

The cases contained in this casebook, unlike those in many other casebooks, are not heavily edited. We have chosen to construct our materials in this way because of our view that it is important for law students to work with full cases rather than to work from heavily edited snippets. As a result, the facts of the cases as set out by the court have seldom been edited. Since many of the cases involve sexual violence against women and children, the facts are sometimes sexually graphic. Again, we have included these cases — despite their explicitness — because we believe that they are essential to a thorough understanding of the criminal law.

Finally, most of the cases in these materials are decisions of appellate courts. This means that they are not transcriptions of what occurred at the accused's trial, but are discussions of points of law that have been argued when a verdict has been appealed.

We hope that you enjoy the study of the criminal law and we welcome your comments on the materials or lectures throughout the course.

M.S.
H.S.
A.M.